

A meeting of the Jasper County Plan Commission was held Monday, April 24, 2017 at 7:00 pm in the Commissioners' Room of the Jasper County Courthouse, Rensselaer, Indiana. Members present: Gerrit DeVries, Sandra Putt, Kent Korniak, Vince Urbano, Jim Walstra, Jim Martin and Justin Rodibaugh. Also present: Todd Sammons, Randle and Sammons, Mary Scheurich, Director of Planning and Development; Kelli Standish, Secretary. Absent were: Todd Peterson and Bryan Overstreet.

Meeting was called to order by Board President Sandra Putt. The first order of business was the call for approval of the March 2017 minutes.

Gerrit DeVries made the motion to approve the March 2017 minutes. Motion was seconded by Jim Martin and carried unanimously.

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Rezone

Cause#PC-3-17

Applicant: Charles Owen

Location : Sec.32-32-6 – Wheatfield Twp. – St.Rd. 10 W. of 400W. S-side

Use : Rezone LB to GC

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Public hearing held pursuant to notice March 9, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Charles Owen was present and stated that he is requesting to rezone the property from LB to GC for the purpose of constructing storage units on the property. He presented pictures of what the outside of the buildings will look like (colored block).

Gerrit DeVries asked how many storage units will you propose to have? He asked if the path around the buildings will be paved or gravel. He also asked if the storage units will be gated where they have to use a code to get in.

Charles Owen replied that he would like to start with 20 small units and 10 large units. There will be pavement but in the back there will be some gravel areas. There will be a block fence around the buildings. They will have to use a code to get into the property where the U-lock Storage will be.

Gerrit DeVries stated that he feels with what Mr. Owen is proposing to do with the property does fit with the surrounding area. There is GC (General Commercial) located around the proposed application.

Sandra Putt asked if anyone present had any opposition to the application. There was none.

Kent Korniak made the motion to recommend approval for the rezoning from LB

to GC to the Board of County Commissioners. Motion was seconded by Vince Urbano and carried unanimously.

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Subdivision

Cause#PC-5-17

Applicant: Robert & Connie Rice and Casey Arnett

Location: Sec.17-31-6 – Walker Twp. – 400W. & 800N. NW Corner

Use: Primary Approval for a 3-lot Subdivision

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Public hearing held pursuant to notice March 29, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Robert Rice was present and stated that they rezoned their property to A2 in February so they could subdivide their property into a subdivision. They own approximately 11.5 acres and are asking for Primary Approval for a 3 lot subdivision. They own the existing house on lot 1 and his daughter and family are proposing to construct a home on lot 2. Lot 3 will be vacant.

Gerrit DeVries stated that when you came before the board to rezone the property you were considering doing a 2 lot subdivision. Why are you asking for a 3 lot subdivision now?

Robert Rice replied that he does not plan on building anything on the proposed lot 3, just on lot 2.

Mary Scheurich stated that the reason it became a 3 lot subdivision versus a 2 lot subdivision is because Mr. Price's daughter wants to build on the middle piece of property and that left a remainder of 2.5 acres that needs to be part of the subdivision as well. Lot 3 will be a buildable lot since it does meet our A2 building standards.

Sandra Putt asked if anyone present had any opposition to the application.

Tom Mathis was present and stated that he lives in the area of the proposed subdivision. In the A2 zoning district under the column "District Intent" it reads "Plan Commission \*Discourage "strip residential" development along county roads." He doesn't see how this is going to preserve and protect agricultural ground in the future.

Ryan Niemeyer was present and stated that he is Casey Arnett's fiancé and they have learned a lot going through the process of zoning and subdividing the property. They are proposing to construct an 1100 square foot home with a gravel driveway.

Jim Martin asked Vince Urbano if he knew of any reason why they wouldn't be able to build on the property.

Vince Urbano replied that he did not see a reason as to why they wouldn't be able to build on the property. He doesn't think there is a drainage problem in that area.

Mary Scheurich replied that they still have to do soil testing to find out where the septic can go, so they will be able to tell from that how the ground is for building.

Attorney Sammons stated that under the new UDO code book the Plan Commission is required to do Findings of Facts for Subdivisions. The board has to make specific findings for a Subdivision, Article 9, Subdivision of Land: Primary Plat 9.15 (7)(b)(i) through (v) and they are as follows:

- i. The subdivision of land is consistent with the Jasper County Comprehensive Plan.
- ii. The subdivision of land satisfies the development requirements of Article 6: Subdivision Types.
- iii. The subdivision of land satisfies the standards of Article 7: Design Standards.
- iv. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.
- v. The subdivision of land satisfies the construction requirements of the Jasper County's Construction Standards.

Gerrit DeVries made the motion to grant primary approval for the proposed 3-lot subdivision. Motion was seconded by Jim Martin and carried unanimously.

Sandra Putt then read the Findings of Facts from Article 9, Subdivision of Land: Primary Plat 9.15 (7)(b)(i) through (v) to the Board:

- i. The subdivision of land is consistent with the Jasper County Comprehensive Plan.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The subdivision of land satisfies the development requirements of Article 6: Subdivision Types.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The subdivision of land satisfies the standards of Article 7: Design Standards.

The board unanimously voted that the applicant met the requirement of (iii).

- iv. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.

The board unanimously voted that the applicant met the requirements of (iv).

- v. The subdivision of land satisfies the construction requirements of the Jasper County's Construction Standards.

The board unanimously voted that the applicant met the requirements of (v).

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Subdivision

Cause#PC-6-17

Applicant: Matthew Misch & Charles Misch

Location: Sec.14-32-6 – Wheatfield Twp. – 200W. S. of 1450N. E-side

Use: Primary Approval for a 2-lot subdivision

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Public hearing held pursuant to notice April 7, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Matt Misch was present and stated that they have obtained zoning approval from A1 to A2 and they have received approval for the lot width requirement for the proposed subdivision lots. He stated that he will construct a home on one of the lots and his brother Charles Misch proposes to build on the other lot and they will both own the remaining 16.957 acres in the back of the property.

Vince Urbano asked what the easement between lots 1 & 2 will be used for. Is it for you to get back to the back property or if you sell it?

Matt Misch replied that it is not their intention of selling the back property but they needed to put the easement there so they would not landlocked the property.

Kelli Standish stated that the back lot cannot be built on since they do not have any frontage.

Vince Urbano asked why they cannot build on the 16.957 acres.

Mary Scheurich replied they do not have enough road frontage to that back property therefore that property could never be built on.

Sandra Putt asked if anyone present had any opposition to the application.

Tom Mathis was present and stated that he is concerned about how many splits have been made in this area that do not comply with the A1 zoning. During the Board of County Commissioners meeting in October 2016 Mr. Walstra stated that the applicant is here to rezone the property from A1 to A2 and that is what they are making their decision

on. Mr. Walstra also stated that they will need to clean up the mess that they have created if they want to come back. He then asked if the mess has been cleaned up?

Matt Misch asked Mr. Mathis to define “Mess.”

Tom Mathis replied as far as all the splits that have been made. Have you combined them into one parcel?

Attorney Sammons stated that he just wanted to clarify tonight that the splits that you are referring to, do not have anything to do with the parcel that is before the board tonight correct?

Tom Mathis replied that the parcel that is before was a whole parcel at one time before everything kept getting split off. This was an eighty acre parcel in 2004 and has been split 11 times since then without having any approvals to do so.

Jim Walstra stated that they cannot get another lot put on this property is that correct?

Mary Scheurich replied affirmatively. They do not have any more frontage available. Those easements are owned by lot 1 and lot 2. It’s not separate property; it is part of those lots to get back to the back property.

Jim Walstra made the motion to grant primary approval for the 2-lot subdivision since they cannot make that back property part of the subdivision. Motion was seconded by Vince Urbano and carried unanimously.

Sandra Putt then read the Findings of Facts from Article 9, Subdivision of Land: Primary Plat 9.15 (7)(b)(i) through (v) to the Board:

- i. The subdivision of land is consistent with the Jasper County Comprehensive Plan.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The subdivision of land satisfies the development requirements of Article 6: Subdivision Types.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The subdivision of land satisfies the standards of Article 7: Design Standards.

The board unanimously voted that the applicant met the requirement of (iii).

- iv. The subdivision of land satisfies any other applicable provisions of the

Unified Development Ordinance.

The board unanimously voted that the applicant met the requirements of (iv).

- v. The subdivision of land satisfies the construction requirements of the Jasper County's Construction Standards.

The board unanimously voted that the applicant met the requirements of (v).

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Rezone

Cause#PC-7-17

Applicant: Prairie Creek Ag Lands LLC – James Kreiger

Location: Sec.4-32-6 – Wheatfield Twp. – 300W. & 400W. S. of 1700N.

Use: Rezone R1 to A1

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Public hearing held pursuant to notice April 7, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Attorney Bailey representing the applicant stated that the property is currently zoned R1 and they are proposing to rezone it to A1. The property is surrounded by tillable acreage. If the rezone is approved then they will file for a Special Exception. There were some concerns at the last meeting about the archaeological artifacts in the area. They have provided an archaeological survey. There are letters from the State archaeologist that states they concur with the archeological report and they would be staying out of the area where the archaeological remains are located at. They will be approximately 350 feet from the Hodge Ditch so they do not impair any wet lands and another 50 feet because of the burial remains. So 400 feet away from the Hodge will be the extent of any sand mining if the rezone is approved and they obtain approval from the Board of Zoning Appeals. The surrounding property is zoned A1.

Gerrit DeVries asked there is a letter from the archaeologist society?

Attorney Bailey replied affirmatively. Basically the letter stated that due to erosion that it's not a viable site archaeological remains. There is a documented site on the property and they were told they need to stay 100 feet away from it or file a cemetery plan under state law.

Vince Urbano asked if the temporary fence is required during construction by the DNR?

Attorney Bailey replied affirmatively. The State Archaeologist has made it clear that they do not want the site marked because they are afraid that people will disturb the ground. For the drainage plan they are going to have to erect a jilt fence around the area

so that will serve as a marker to keep away from the perimeters.

Sandra Putt stated that the only thing that is before the Plan Commission members is an application to rezone from R1 to A1 and see what zoning is the best use for the area. The sand mining will be filed with the Board of Zoning Appeals and the evidence will be provided for them.

Jim Martin asked if they should only rezone part of the property that they will be proposing to sand mine or should they rezone the entire property to A1?

Vince Urbano replied that he wasn't sure of leaving some of the property R1 when the rest is zoned A1.

Sandra Putt asked if anyone present had any opposition to the application.

Bernard Seegers was present and stated that he has all the archaeology that was done on this property. They had a field school that was done in 1980 that shows where all the out pits are on the property. He presented a lot of paper work/ pictures to the board members to look at. There are copies in the file that are stamped with the date of April 11, 2017. There is paper work that states what was found in the out pits. He's asking for an external investigation of Jasper County and it went to the Federal court.

Hans Markland was present and stated that 2011 or 2012 Mr. Kreiger filed for approval for a Hunt Club before the Board of Zoning Appeals and he obtained approval to run a gun club on the property. He then filed a Writ of Certiorari against Mr. Kreiger for the hunt club. He presented a copy of the Certiorari to the Plan Commission tonight to show that Mr. Kreiger makes a mockery to our rules and our judgments'. He then read the "conclusion" from the certiorari that Judge Ahler stated. "For all of the foregoing reasons, the court now VACATES the BZA's order granting the special exception to the applicants." He has ignored this and is in contempt of court. This is how he operates. There are a lot of artifacts on the proposed property. The roads are not paved they are chip-n-sealed and he does not believe they will be able to handle the truck traffic if the mining permit gets approved. There are a lot more artifacts in that area than they say there are.

Attorney Bailey responded that there have been 2 archaeology survey's done on this property by trained archaeologist. As far as Mr. Seegers pictures of the artifacts that have been dug up he doesn't know if those pictures were taken from this property or another piece of property. If they get approval to mine the letter from the DNR states that in areas B, C and D if they find something they have to stop mining. The reason the property is zoned R1 was for the fact that a subdivision was going to be proposed in this same area. With a subdivision being proposed and several houses being located on the property they would be digging holes in the area. He doesn't understand from the audience what their objections are since this property had plans to be a subdivision.

Gerrit DeVries stated that he has mixed feelings about the application because of

the artifacts. He has never driven on the hill but there is a distinct hill on the property and he would not like to see that disturbed. He would like to protect the artifacts as much as he can.

Jim Martin asked Attorney Bailey if he had the Archaeologist report with him that shows where the artifacts are located at.

Attorney Bailey replied affirmatively.

The board members asked if they could see the report.

Attorney Bailey replied affirmatively. He then presented the letter and survey that shows where the artifacts are located at.

Attorney Sammons stated that the letter and the survey are confidential and cannot be shared with the public.

Vince Urbano made the motion to recommend approval of the rezoning from R1 to A1 to the Board of County Commissioners. Motion was seconded by Kent Korniak and failed with a vote of 4 members in favor and Sandra Putt, Gerrit DeVries and Jim Martin opposed.

No recommendation will forward to the Board of County Commissioners.

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#### Discussion on Rules of Procedures

Jim Martin asked if the Rules of Procedure will be part of the UDO code book?

Mary Scheurich replied that they are referenced in the UDO.

Attorney Sammons replied that he thinks there is something in the UDO that the Plan Commission shall adopt it's own rules and procedures. As long as they are not inconsistent with the existing law and they just guard the flow of the meeting or if you want to determine how evidence is presented or put a time limit on how long the remonstrator can speak would be covered in the Rules of Procedures.

Jim Walstra asked if the highlighted sections are existing or are they new to the rules of procedure.

Mary Scheurich replied neither. She believes they are things that are questionable as to whether you want them in the book or not.

The board members did question under "Final Disposition of Causes D: When a motion of the Commission fails to receive a majority vote of the Commission (whether in favor or against) and therefore does not result in an official action of the Commission, the matter shall be automatically continued, re-docketed and heard again at the next meeting



of the Commission.”

The board members discussed making a change to “Final Disposition of Causes D.” They feel if the board cannot make a majority motion that passes to the Board of County Commissioners then the application will be continued to the next month in hopes to have a majority vote.

Jim Walstra made the motion approve the Rules of Producers with the change mentioned above. Motion was seconded by Jim Martin and carried unanimously.

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Public Comments:

Tom Mathis was present and stated that he started coming to these meetings around 2007 because there was activity in his neighborhood. The activity is still going on and he would like to see it stopped. He moved to an agricultural area to get away from that kind of activity. He would like to see more teeth in the UDO book. He never has demonstrated against anything unless it was in non compliance of the code. His neighbor is still doing body work from his home. Not as much as he use to, but still doing it. He doesn't feel this is the right location for him to run his business. He is totally against home base businesses. He feels it goes against the state statute. The UDO says the higher standards apply when there's a conflict from one page to another. There is another business that is located at 107 E 950 N., currently there are 20-30 vehicles located on the property. Nothing has been done about him running a business there. He feels we need to try harder to get these people in the right locations for the business that they want to run. The way the properties are coded on the assessor's office is not right. People are getting away with paying less taxes than the people that are complying with the code. He would like to see something done about the people running a nonconforming business from their home.

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Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

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Sandra Putt, President